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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-section (II)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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No. 1713] NEW DELHI, MONDAY, DECEMBER 8, 2008/AGRAHAYANA 17, 1930

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 4 दिसम्बर, 2008

का.आ. 2848(अ).—केन्द्रीय सरकार ने विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्यांक का.आ. 1133(अ), तारीख 14 मई, 2008 द्वारा लिबरेशन टाइगर्स ऑफ तमिल ईलम (जिसे इसमें इसके पश्चात् लिट्टे कहा गया है) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्यांक का. आ. 1389(अ), तारीख 6 जून, 2008 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) प्राधिकरण (जिसे इसमें इसके पश्चात् उक्त अधिकरण कहा गया है) जिसमें दिल्ली उच्च न्यायालय के माननीय न्यायाधीश न्यायमूर्ति विक्रमजीत सेन थे, का गठन किया;

और, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या लिट्टे को विधिविरुद्ध घोषित किए जाने का पर्याप्त कारण था या नहीं, 23 जून, 2008 को उक्त अधिकरण को उक्त अधिसूचना निर्दिष्ट की थी;

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना संख्यांक का. आ. 1133(अ), तारीख 14 मई, 2008 में की गई घोषणा की पुष्टि करते हुए 19 नवम्बर 2008 को एक आदेश (जिसे इसमें इसके पश्चात् उक्त आदेश कहा गया है) प्रारित किया था।

अतः, हम, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उप-धारा (4) के अन्वये में उक्त अधिकरण के उक्त आदेश को प्रकाशित करती है; अर्थात्

(निर्णय अंग्रेजी में छपा है)

[फा. सं. आई-11034/1/2008-आईएस-1]

डी. दीपविलास, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 4th December, 2008

~~S.O. 1133(E)~~—Whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act) declared vide notification of the Government of India in the Ministry of Home Affairs number S.O. 1133(E), dated the 14th May, 2008 the Liberation Tigers of Tamil Eelam (hereinafter referred to as LTTE) to be an unlawful association;

AND WHEREAS, the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted vide notification of the Government of India in the Ministry of Home Affairs number S.O. 1389(E), dated the 6th June, 2008 the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Mr. Justice Vikramajit Sen, Judge of the Delhi High Court;

AND WHEREAS, the Central Government, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on 23rd June, 2008 for the purpose of adjudicating whether or not there was sufficient cause for declaring the LTTE as unlawful;

AND WHEREAS, the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, made an order (hereinafter referred to as the said order) on the 10th November, 2008, confirming the declaration made in the notification number S.O. 1133(E), dated the 14th May, 2008;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said Order of the said Tribunal, namely:-

**BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL
CONSTITUTED VIDE NOTIFICATION NO.133(E)
DATED 14TH MAY, 2008**

Dated the 10th November, 2008

IN RE:

LIBERATION TIGERS OF TAMIL EELAM (LTTE)

CORAM:
HON'BLE MR JUSTICE VIKRAMAJIT SEN

PRESENT:

**Union of India through: Mr.P.P.Malhotra, Addl. Solicitor
General with Mr. Dalip Mehra, Central Government
Standing Counsel,
Mr. Shailendra Sharma and
Mr. Rajiv Ranjan Mishra, Advocates
along with Mr. P.K.Mishra, Director
and Mr. Virender Kumar,
Under Secretary, (Internal Security
Division), Ministry of Home Affairs,
New Delhi.**

**State of Tamil Nadu: Mr. S.Dhananjayan, Standing Counsel
through: with Mr. M.Ashok Kumar,
Superintendent of Police 'O' Branch,
CID Headquarter, Chennai.
Mr. Anil Kumar Koushal, Registrar of the
Tribunal.**

J U D G M E N T

1. In exercise of powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the 'Act'), the Central Government has issued notification No.1133(E), dated the 14th May, 2008, declaring the Liberation Tigers of Tamil Eelam (hereinafter referred to as the 'LTTE' for short) as an Unlawful Association. The notification is reproduced below:

“S.O. 1133(E).—WHEREAS, the Liberation Tigers of Tamil Eelam (hereinafter referred to as the LTTE), is an association based in Sri Lanka but having sympathizers, supporters and agents on the Indian soil;

AND WHEREAS, the LTTE's objective for a separate homeland (Tamil Eelam) for all tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of an unlawful activity;

AND WHEREAS, the turbulence in Sri Lanka is being exploited by pro-LTTE forces to draw up support for the LTTE and its cause by taking out processions, demonstrations, etc., in spite of the ban, causing disquiet and threat to the security of the State of Tamil Nadu;

AND WHEREAS, most of the criminal cases involving the LTTE and pro-LTTE groups like Tamil National Retrieval Troops (TNRT), Tamil Nadu Liberation Army (TNLA) and Tamiliar Pasarai, have ended in conviction but the Tamil Eelam concept still remains as a goal among the pro-LTTE groups in Tamil Nadu. The forces are still

at work to further its cause thereby contributing to the vulnerable milieu in which the LTTE is free functioning in India as an association; if allowed, would be highly detrimental to the sovereignty and territorial integrity of India;

AND WHEREAS, the LTTE continues to be an extremely potent, most lethal and well-organized terrorist force in Sri Lanka and has strong connections in Tamil Nadu and certain other pockets of southern India. The LTTE continues to use the State of Tamil Nadu as the base for carrying out smuggling of essential items like petrol and diesel, besides drugs to Sri Lanka;

AND WHEREAS, the LTTE will continue to remain a strong terrorist movement and stimulate the secessionist sentiments to enhance the support base of the LTTE in Tamil Nadu as long as Sri Lanka continues to remain in a state of ethnic strife torn by the demand for Tamil Eelam which finds a strong echo in Tamil Nadu due to the linguistic, cultural, ethnic and historical affinity between the Sri Lankan Tamils and the Indian Tamils in Sri Lanka;

AND WHEREAS, for the reasons aforesaid, the Central Government is of the opinion that the LTTE is an unlawful association and there is a continuing strong need to control all such separatist activities by all possible means;

AND WHEREAS, the Central Government has the information that-

- (i) the activities of the LTTE cadres/dropouts, sympathizers who have been traced out recently in the State of Tamil Nadu suggest that the cadres sent to Tamil Nadu would ultimately be utilized by the LTTE for unlawful activities;

- (ii) the activities of pro-LTTE organizations and individuals have come to notices in India, despite the ban in force and attempts have been made by these forces to extend their support to the LTTE;
- (iii) the LTTE leaders have been cynical of India's policy on their organization and action of the State machinery in curbing their activities;

AND WHEREAS, the Central Government is of the opinion that the aforesaid activities of the LTTE continue to pose a threat to, and are detrimental to the sovereignty and territorial integrity of India as also public order and, therefore, should be declared as an unlawful association;

AND WHEREAS, the Central Government is further of the opinion that because of (i) continued violent and disruptive activities prejudicial to the integrity and sovereignty of India; and (ii) it continues to adopt a strong anti-India posture and also continues to pose a grave threat to the security of Indian nationals, it is necessary to declare the LTTE as "an Unlawful association" with immediate effect;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) and proviso to sub section (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Liberation Tigers of Tamil Eelam (the LTTE) as an unlawful association and directs that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect on and from the date of its publication in the Official Gazette "

2. The Notification directs that, subject to any order that may be made under section 4 of the Act, it shall have effect on and from the date of its publication in the Official Gazette. Under section 4 of the Act, the Tribunal has been empowered to declare such an Association as unlawful. The notification No.1133(E), dated the 14th May, 2008 was followed by notification No.1389(E), dated the 6th June, 2008, issued under section 5(1) of the Act making reference to the Tribunal to adjudicate whether or not there is sufficient cause for declaring the LTTE as an unlawful Association. As required by rule 5 of the rules framed under the Act, the Central Government along with the reference letter dated the 23rd June, 2008 forwarded the resume regarding the aims, objectives and activities of the LTTE as also "The Constitution of People's Front of Liberation Tigers", the front organisation of the LTTE. The documents attached to the reference also included the cases registered and/or arrests made including Tamil chauvinist groups in Tamil Nadu since May, 2006.

3. On receipt of the reference, a preliminary hearing was held on 4th July, 2008 in New Delhi on which date notice was issued to the LTTE under sub-section (2) of section 4 of the Act, to show cause within thirty days from the date of service of such notice, as to why it be not declared unlawful. The next date of hearing was fixed as 25th August, 2008. Since there was no particular address of the LTTE in India, it was directed that Notices be served upon LTTE in the same manner as the notification banning it had been served. It was further directed that copies of the notice be served at its Principal Office or by

affixing a copy of the notice at some conspicuous part of the office of the Association, if any, in India and Sri Lanka. As the International Secretariat of the LTTE was stated to be located at Eelam House, 202, Long Lane, London SE14QB, it was directed that the notice be also issued to the LTTE at the aforesaid address. It was also directed that contents of the notice be made known by proclamation by beat of drum or by means of loudspeakers in the area in which the activities of the Association are ordinarily carried on. In addition, it was directed that the notice be served by publication in two National Newspapers (one in English and one in Hindi) and in one vernacular newspaper of the respective States in which the activities of the LTTE are ordinarily carried on. Notice was also directed to be published in two leading newspapers in Sri Lanka either in 'Island', 'Virakesari', 'Daily News' or in 'Thinakaran Sunday Observer' and in the leading newspaper 'Times' in the United Kingdom. Besides the aforesaid modes, Notice was also directed to be served upon the LTTE by way of broadcasting on All India Radio and telecast on Doordarshan.

4. The Central Government was directed to take necessary steps for serving the notice in the aforesaid manner and also to file a Service Report with the Registrar of the Tribunal within two weeks thereafter, duly supported by the affidavits of the concerned officials who effected the service along with supporting documents.

5. Affidavit of Sh. Virender Kumar, Under Secretary, Ministry of Home Affairs, dated the 23rd August, 2008 regarding service of the Show Cause

notice on LTTE was filed, inter alia, affirming that pursuant to the directions by this Tribunal, the Ministry of Home Affairs requested the Ministry of External Affairs, the Government of Tamil Nadu and the Directorate of Advertising and Visual Publicity, New Delhi, to get the requisite carried out in accordance with the directions contained in order dated the 4th July, 2008. Since the Service Report was not complete as on 25th August, 2008, on the request of learned ASG, the matter was adjourned to 1st September, 2008. On 1st September, 2008 two additional affidavits of service of even date were filed. However, since the Service Report from some quarters was awaited, the matter was further adjourned to 15th September, 2008, on which date, on the request of learned ASG, the matter was again adjourned to 19th September, 2008 for hearing at Delhi.

6. In the order dated 19th September, 2008, publication of notice in 'Hindi' was dispensed with. It was also observed that in compliance with the orders dated 4th July, 2008 of the Tribunal, notices were sent to the Liberation Tigers of Tamil Eelam (LTTE). It was noted that the Ministry of External Affairs, had given its report dated 18.8.2008 whereby it was stated that the High Commission in London and Sri Lanka were advised to take action to serve the notice on LTTE at its respective addresses in London and Sri Lanka. The Report received vide letter dated 26th August, 2008 from the High Commission of India in London was that the notices had been received back from the Royal Mail with no comments. The Tribunal was satisfied with the notices published in the UK newspaper, namely 'The Times' dated 06.8.2008, as per copy of

newspaper clipping enclosed with the affidavit. Notices had also been published in the Sri Lankan newspapers "Virakesari"(Tamil) and "Daily News"(English), dated 20.8.2008 and 21.8.2008 respectively, per copies of the newspaper clippings attached with the Affidavit. It was noted that as per the affidavit, notices had been exhibited on notices boards of all Collectorates, Taluk Offices, Revenue Divisional Offices, Police Headquarters, District Police Offices and Police Stations and in some public places in Tamil Nadu by the State Government of Tamil Nadu. Notices had also been published in Tamil Nadu in 'The Hindu' and 'The New Indian Express' (English Edition) dated 18.7.2008 and 23.7.2008 and Tamil Daily "Daily Thanthi" on 18.7.2008. per copies of press clippings attached therewith. It was also asseverated in the affidavit that notices had also been published in Delhi in 'The Hindu' and 'The Indian Express'(English Edition), dated 24.7.2008. The affidavit further stated that in compliance with the orders of the Tribunal, Notices had also been served on the LTTE by broadcast on All India Radio and telecast on Doordarshan at different Kendras/Stations in different languages including English, Hindi and Tamil, on different dates.

7 The supporting documents received from the Ministry of External Affairs, Government of Tamil Nadu and the Directorate of Advertising and Visual Publicity were enclosed with the said affidavits. Also enclosed were the publications wherein the Notices were published. In view of the facts mentioned above, the Tribunal is satisfied that proper and adequate notices and

publicity of its hearings have been given to the LTTE to enable it to appear and represent its cause to the Tribunal.

8. The Union of India and the State of Tamil Nadu were directed to lead their evidence in the form of affidavits with supporting material.

9. Despite the service on the LTTE in the aforesaid manner, no one appeared on its behalf, nor was any representation received from it. In the hearing held on 3rd October, 2008 at Madurai in Tamil Nadu, the LTTE was accordingly proceeded ex parte. Union of India as well as the State of Tamil Nadu were represented in the said hearing. The LTTE, it is evident from the above, has failed to show any cause in its favour. Nevertheless, the Central Government is required to justify its decision.

10. On behalf of the State of Tamil Nadu, Mr. M. Ashok Kumar, Superintendent of Police, 'Q' Branch CID, Chennai, Tamil Nadu has filed his affidavit dated 15th September, 2008 and additional affidavit dated the 30th October, 2008. On behalf of the Central Government, an affidavit of Mr. B.K.

Mishra, Director, Internal Security, Ministry of Home Affairs has been filed.

11. In the affidavits filed by the aforesaid two deponents, both have highlighted the background in which the notifications were passed declaring the LTTE as an Unlawful Association under the Act. It is stated that the first notification was issued by the Government of India on 14th May, 1992, for a period of two years from the said date. Thereafter successive notifications have been passed every two years. Each of the previous Tribunals constituted

thereupon have answered the reference by holding that there was sufficient cause for declaring the LTTE to be an Unlawful Association within the meaning of said Act. Consequently from 14th May, 1992 onwards, the LTTE has uninterruptedly been declared as an Unlawful Association under the Act. The last notification dated 14th May, 2006 expired on 13th May, 2008 and on the following day extant notification dated 14th May, 2008 has been issued. On the basis of the aforesaid factual backdrop it is stated that LTTE is continuing with the unlawful activities which forced the Central Government to issue successive notifications. It has also been deposed that since LTTE has protracted its violent and disruptive activities, prejudicial to the integrity and sovereignty of India, notification dated 14th May, 2008 has been issued declaring it to be an Unlawful Association. This has been done after forming the opinion that these activities of the LTTE continue to be a threat and a detriment to the sovereignty of India as well as a danger to public order.

12. Mr. M. Ashok Kumar, in order to demonstrate that there was enough material before the Central Government to form the aforesaid opinion and to record satisfaction that LTTE is to be declared as an Unlawful Association, has deposed that the organization, Liberation Tigers of Tamil Eelam (LTTE), was originally formed in 1974 under the name of 'Liberation Tigers' in Sri Lanka. The present name i.e., Liberation Tigers of Tamil Eelam (LTTE) was adopted in 1976, with Velupillai Prabhakaran as its military commander. It has declared its ultimate objective as the "Total Liberation of its homeland and the establishment of an independent, sovereign socialist State of Tamil Nadu". It

has further been deposed that the LTTE, a foreign based terrorist organization, continues its unlawful activities by using its own cadres as well as local smugglers and pro-LTTE operatives for procuring Explosives, Detonators, Chemicals, Iron Balls, Aluminium and Lead bars, Computer spare parts, GPS, Walkie Talkie Sets, Plastic Granules, Boats, Batteries, Cells etc. and clandestinely transporting them through boats across the sea from the shores of Tamil Nadu. The LTTE has sympathizers, supporters and agents on the Indian soil. Its objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of an unlawful activity. The turbulence in Sri Lanka is being exploited by pro-LTTE forces to draw up support for the LTTE and its cause by taking out processions, demonstrations, etc. in spite of the ban, causing disquiet and threat to the security of the State of Tamil Nadu. Most of the criminal cases involving LTTE and pro-LTTE groups like Tamil National Retrieval Troops (TNRT), Tamil Nadu Liberation Army (TNLA) and Tamilar Pasarai, have ended in conviction but the Tamil Eelam concept still remains as a goal among the pro-LTTE groups in Tamil Nadu. The forces are still at work to further its cause thereby contributing to the vulnerable milieu in which the LTTE's free functioning in India as an association, if allowed, would be highly detrimental to the sovereignty and territorial integrity of India. He has deposed that the LTTE continues to be an extremely potent, most lethal and well-organised terrorist force in Sri Lanka and has strong connections in Tamil Nadu.

Nadu and certain pockets of southern India. The LTTE continues to use the State of Tamil Nadu as the base for carrying out smuggling of essential items like petrol and diesel, besides drugs to Sri Lanka. The LTTE continues to remain a strong terrorist movement and stimulate the secessionist sentiment to enhance the support base of the LTTE in Tamil Nadu as long as Sri Lanka continues to remain in a state of ethnic strife torn by the demand for Tamil Eelam which finds a strong echo in Tamil Nadu due to the linguistic, cultural, ethnic and historical affinity between the Sri Lankan Tamils and the Indian Tamils in Sri Lanka. The activities of the LTTE cadres, drop-outs, sympathisers who have been traced out recently in the State of Tamil Nadu suggest that the cadres sent to Tamil Nadu would ultimately be utilized by the LTTE for unlawful activities. He has further stated that the activities of pro-LTTE organizations and individuals have come to notices in India, despite the ban in force and attempts have been made by these forces to extend their support to the LTTE. The LTTE leaders have been critical and cynical of India's policy on their organization and action of the State machinery in curbing their activities.

13. Mr. M. Ashok Kumar has also categorically stated that the main objectives of the People's Front of Liberation Tigers (PFLT), the political front of LTTE are: (a) to fight for the right of self-determination of the Tamils and Muslims; (b) to protect and preserve the geographical identity and integrity of the traditional homelands of the Tamils and Muslims. He has annexed with the affidavit a copy of the Constitution of the People's Front of Liberation Tigers

as Annexure X-10. It is significant that these objectives speak of all Tamils irrespective of geographical distinction and an inference is irresistible that while the immediate struggle of LTTE is against the Government of Sri Lanka, its larger objective, given the geographical contiguity and ethnic affinity, would include the Tamil areas of India also and thus pose a real and serious threat to the sovereignty and territorial integrity of India. According to him there is no indication to show that P.L.P. has revoked its continuation or in any manner retracted from its avowed objectives of creating an independent and separate Tamil Eelam consisting of parts of India.

14. Mr. M. Ashok Kumar has further stated that the LTTE has created the Tamil National Retrieval Troops (TNRT), Tamil Nadu Liberation Army (TNLA) and Tamilar Passarai, Secessionist Organizations in Tamil Nadu in furtherance of its objective of seeking secession of Tamil Nadu and questioning India's sovereignty and Territorial integrity. TNRT and TNLA have been declared as terrorist organizations under the Criminal Law Amendment Act. Another underground organisation and a front organisation of TNLA, viz., Tamil Nadu Liberation Front has exhibited, in the internet, a map of Greater Tamil Nadu encompassing Eelam (Sri Lanka), Tamil Nadu, Kerala, Lakshadweep and Maldives during the kidnap of Dr. Raj Kumar, matinee idol of Karnataka by the forest brigand Veerappan with the assistance of TNRT and TNLA. (reference - Annexures B.1, B.2, B.5 and B.6 to the affidavit).

15. Mr. M. Ashok Kumar further deposed that the information and reports received by the State Government from time to time show the continuing activities relating to procurement and smuggling of raw material for manufacture of explosives such as detonators, iron balls/pellets, aluminium ingots, potassium chlorate, sulphuric acid, resin etc., boats including speed boats, spare parts of boats including engines etc., Petrol, Oil and Lubricants(POL), clothes, medicines, Global Positioning Systems (GPS), communication equipments, batteries, etc., attempt to target leaders belonging to rival Sri Lankan Tamil Groups by LTTE in league with activists of pro-LTTE groups and their sympathizers. He has given particulars of the series of cases registered against LTTE cadres, pro-LTTE elements and Tamil chauvinist groups under the Act, since the last ban was imposed vide notification dated the 14th May, 2006. These cases registered by the Tamil Nadu police have invoked the provisions of Unlawful Activities (Prevention) Act, 1967, Indian Penal Code, Explosive Substances Act etc. Illustrative examples of some of these cases are given below:

- (i) A white TATA Sumo bearing Registration No.TN 60 Y 3040, met with an accident, near Othakadai, Kalpirivu diversion, on NH 49 Madurai – Rameswaram Road in Manamadurai PS limits in Sivagangai District on 29.11.2006, injuring the driver of the vehicle Vijayakumar s/o Veerasekar @ Sekar. When a search was conducted in the said vehicle, 30 small bags containing 25 kgs each of explosives were found concealed in

the vehicle, which were to be smuggled to Sri Lanka. In some of the explosive packings, it was mentioned as CELEX Booster, Gowthami Explosives Pvt. Ltd, Hyderabad. In this connection, a case was registered in Manamadurai PS.Cr.No.657/06 u/s 279, 357 IPC and 5 of Explosive Substances Act, 1908. Six persons including 1) Dhinakaran, 2) Vinothkumar, 3) Vijayakumar and 4) Mytheen were arrested. (Annexure E.2 to the affidavit).

(ii) On 23.01.2007, an LTTE module engaged in procuring and dispatching war materials to Sri Lanka was busted. The materials seized included, iron pellets in tonnes, cell phones, two vehicles and one boat. An FIR, Crime No.1/2007, dated 23.01.2007, has been registered at 'Q' Branch, Chennai city, police station. (Annexure E.3 to the affidavit).

(iii) The Indian Navy, on 12.2.2007, intercepted a country boat at South seashore Muguntharayarchathiram with two boat drivers and seized aluminium ingots, Lead bars, metal rings, cups and clips and metal pins all weighing about 2.8 tonne meant for LTTE in more than 100 gunny bags. An FIR, Crime No.18/07, dated 13.02.2007, has been registered at Banaskodi police station, District Ramanathapuram (Annexure E.4 to the affidavit).

(iv) **Indian Coast Guard** on 13.2.2007 intercepted an **LTTE** vessel in **Palk Strait**. 1 **AK-56** rifle with 124 rounds, 5 **Eds**, cyanide capsules, a suicide belt containing 7 kgs of **RDX**, a **GPS** and **Thuraya** Satellite Phone were seized. The boat was on a suicide mission to target the **Sri Lankan Navy/harbour** and was awaiting orders. It was laden with about 500 kgs of explosives which was destroyed in the mid-sea while trying to defuse it. 5 persons including 4 **Sri Lankan Tamils** and one **Indian** were arrested. An **FIR No.01/2007** dated **14.02.2007** at **B6, Port Marine**, police station has been registered.(Annexure E.5 to the affidavit).

(v) **The Indian Navy**, on 14.2.2007, intercepted a country boat at a distance of 5 Nautical miles South of **Dhanushkodi** and secured 3 **Sri Lankan Tamils** and seized aluminium metal bars, circle shaped iron pellets weighing about 2.7 tonnes meant for **LTTE** in more than 126 gunny bags. An **FIR, Crime No.19/2007** dated **15.02.2007**, **Dhanushkodi Police station**, **Ramnathpuram** has been registered.(Annexure E.6 to the affidavit).

(vi) **One Jayaraj Rathinam s/o Rathinam Reddiarpatti, Aruppukottai**, an activist of **Dalit Panthers of India (DPI)** was arrested in **Chennai** on 10.10.2007 for procuring boats spares such as propeller, steering wheel, etc., from **Oslo, Norway**, with

the intention of smuggling it to LTTE in Sri Lanka. While this consignment was in the harbour, the Directorate of Revenue Intelligence informed Tamil Nadu police and accordingly the accused was arrested by Tamil Nadu police. An FIR, Crime No.4/2007 dated 10.10.2007, 'Q' Branch CID, Chennai has been registered. (Annexure E.12 to the affidavit).

(vii) An LTTE procurement module headed by James @ Raja and Jaykumar @ Gowri Shankar, Sri Lankan Tamils was eventually busted on 8th December, 2007, as they were smuggling computer spare parts, swimming suits and GPS apart from boats. A total of 6 persons have been arrested including one sea tiger, 2 Sri Lankan Tamils and 3 Indians. An FIR, Crime No.5/2007 dated 08.12.2007, 'Q' Branch, Chennai city police station has been registered. (Annexure E.15 to the affidavit).

(viii) One Thambidurai Parameswaran @ Paramesh @ Deva @ Nathan @ Suruli, an LTTE Intelligence Wing cadre was arrested by Tamil Nadu police along with his 8 Sri Lankan helpers for helping the LTTE in procuring essential items, iron balls etc., on 16.1.2008. Enquiries revealed that the team was gathering intelligence about rival leaders like Varadaraja Perumal (EPRLF leader) and Douglas Devananda, leader of EPDP, a minister in Sri Lankan Government and his Personal Assistant Yogaraj

Total 10 persons including one Indian and 9 Sri Lankans were arrested. An FIR, Crime No.1/2008 dated 17.01.2008, 'Q' Branch, Chennai city Police has been registered.(Annexure E.20 to the affidavit).

(ix) A 72-foot long Fishing Trawler being built by LTTE in the Munambam Boatyard near Cochin, at a cost of nearly Rs.36 lakhs was detected on 03.3.08. The Tamil Nadu police arrested Premraj @ Thuraikutty (Sri Lankan Tamil associate of Soosai, Sea Tiger Chief) at Trichy and Sivakumar @ Kumar @ Diesel Kumar (LTTE Operative) from Mandapam Refugee camp and located the LTTE boat under construction at Munambam, Cochin, Kerala which has been confiscated by the police. The boat was meant for mid-sea transactions of arms and ammunition by LTTE. An FIR, Crime No.01/2008, 'Q' Branch CID, Tiruchirappalli (Trichy) dated 03.03.2008 has been registered.(Annexure E.26 to the affidavit).

16. In his evidence Mr. M. Ashok Kumar has also mentioned about the convictions of pro-LTTE cadres in the recent past, as detailed below:

(i) On 25.1.1993, some of the Tamil National Liberation Army(TNLA) members, namely, 1) Murugesan @ Chezhiyan, 2) Nallarasu @ Nallarasan, 3) Ravi @ Ravichandran and 4 others were tried by the Designated Court, under the Terrorist and

Disruptive Activities (Prevention) Act, 1987 at Chennai and were convicted under applicable provisions of Indian Penal Code (IPC) and Terrorist and Disruptive Activities (Prevention) Act. A copy of the said judgment is (Annexure D-1. (Vol.VI pg.1 to 129) to the affidavit.

(ii) On 18.11.1993, some of the Tamil National Liberation Army (TNLA) members, namely, 1) Nallarasu @ Nallarasam, 2) Ravi @

Ravichandran, 3) Su @ Sundaram and 8 others were tried under Terrorists and Disruptive Activities (Prevention) Act and other relevant Acts by Designated Court No.II under Terrorist and Disruptive Activities (Prevention) Act, 1987 at Chennai and were sentenced for up to 10 years rigorous imprisonment on 28.03.2008. A copy of the said judgment is Annexure D-2. (Vol.VI, pages.131 to 409) to the affidavit.

(iii) In a case of 2001, 1) Ramesh @ Jayaseelan, 2) Abimaranan and 3) Madasamy @ Kallathan of Rameswaram were tried under Unlawful Activities (Prevention) Act, 1967. They were convicted to two years of rigorous imprisonment by the District Sessions and Judicial Magistrate Court Rameswaram on 09.03.2007. A copy of the said judgment is Annexure D- 3. (Vol.VI, pg. 411-555) to the affidavit.

(iv) Apart from the above, another minor case also resulted in conviction and a copy of this judgment is **Annexure – D-4 (Vol.VI, pg.457-471) to the affidavit.**

17. The affidavit further states that pro-LTTE organizations have been voicing the demand for the establishment of a separate Tamil Nation Republic, including cession and secession from India. Some of the illustrative instances of speeches given are as under :

(i) S.K. Mahadevan, District President of People's Right Federation spoke under the banner of Tamil Eelam Liberation Supporters Coordination Committee (TELSCC), on 08.02.2007 in Tirunelveli district, that they would not hesitate to detach from India and establish a separate Tamil National Republic if the Indian Government continued to give arms training to Sri Lankan Army. Durai Arima spoke about the Tamils having an opportunity for establishing a separate Tamil land under the guidance of LTTE leader Prabhakaran. A copy of the gist of the speech in English of the relevant portion is **Annexure-B-10: (Vol.V, pg.237-247) to the affidavit.**

(ii) In a public meeting at Madurai on 07.09.2007 held by Tamil Eelam Liberation Supporters Coordination Committee (TELSCC), Abdullah of Indian National League, inter alia, stated that the Central Government and the State Government are apprehending

that if Prabhakaran achieved separate Tamil Eelam in Sri Lanka, he would be brought to Tamil Nadu to fight for a separate state here in India. This will certainly happen. Tamil Eelam is the first step and Tamil Nadu would be the second. A copy of the gist of the speech in English of the relevant portion is Annexure B-12.

(Vol.V, pg.265-272) to the affidavit.

(iii) In a meeting organized by Tamil Eelam Liberation Supporters Coordination Committee (TELSCC) at Rajapalayam on 26.09.2007, one Chellasamy, inter alia, stated that Tamil Nadu was only for Tamils and Tamil Nadu had to become a separate nation to maintain democracy. A copy of the gist of the speech in English of the relevant portion is Annexure - B-16. (Vol.V, pg.311-327) to the affidavit.

(iv) In a public meeting at Thanjavur on 16.1.2008 organized by Tamil Kalai Ilakkiya Peravai, Pazha Rajendran, inter alia stated that 6.5 crore people of Tamil Nadu can function separately by seceding from the Delhi rule and advocated to create an insurgency for Tamil nation. A copy of the gist of the speech in English of the relevant portion is Annexure-B-18(Vol.V, pg.337-342) to the affidavit.

(v) 262 members of Tamil Eelam Liberation Supporters Coordination Committee assembled near Manroe Statue, Anna Salai,

Chennai, to take out a procession to Government Guest House, Chopauk on 12.11.2007, under the lead of Pazha Nedumaran, condemning the death of LTTE Political Head S.P. Tamil Chelvan. Vaiko, Marumalarchi Dravida Munnetra Kazhagam(MDMK), General Secretary, Seema Basheer of Marumalarchi Dravida Munnetra Kazhagam (MDMK) and P. Maniarasan of Tamil Desa Poduvudaimai Katchi were prominent among the participants. Nedumaran condemned the Sri Lankan Government for violating human rights. Later, they raised slogans condemning the Police, the Central Government and saluted S.P. Tamil Chelvan. When the members attempted to take out procession, all of them were arrested and a case in D1 Triplicane PS Cr.No.2148/2007 u/s 13(1)(2) Unlawful Activities (Prevention) Act, 1967 and Sec.188, 143 IPC r/w 7 (1)(a) Criminal Law (Amendment) Act was registered. (Annexure A-112, Vol.IV, pages 1481-1497 to the affidavit).

18. It is further stated that the above cases illustrate the illegal, disruptive and secessionist activities of LTTE cadre in close association with local elements, which would prove that LTTE continues to use the cadres sent to Tamil Nadu, ultimately to be utilized for unlawful activities to pursue its agenda. In this context it is submitted that the Unlawful Activities (Prevention) Act, 1967, is an important legal tool for law enforcement agencies for controlling such activities. It has been stated by the witness that it is very

important that the LTTE, which is a terrorist organization as per schedule to the Unlawful Activities (Prevention) Act, 1967, as amended in 2004, continues to remain an Unlawful Association for a further period of two years, with effect from 14.05.2008, failing which, one of the consequences could be that Tamil Nadu becomes an open ground for procurement, smuggling of war materials, etc. and other unlawful activities by the LTTE and its sympathizers. This may in turn impinge upon the sovereignty and territorial integrity of the country apart from having serious consequences on account of disturbance of peace and tranquillity in the State of Tamil Nadu.

19. Mr. M. Ashok Kumar was examined as PW-1. In his statement recorded on 3rd October, 2008 at Madurai, he deposed that he is serving as Superintendent of Police, 'Q' Branch CID, Chennai, Tamil Nadu and is familiar with the facts of this case since he is dealing with the activities of the Liberation Tigers of Tamil Eelam (LTTE) in his official capacity. A copy of the Notification issued by the Government of India, Ministry of Home Affairs, vide notification dated 14th May, 2008, under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967, published in the Gazette, Extraordinary, declaring the LTTE as an Unlawful Association from the date of its publication has been proved by him and is Exhibit PW-1/1. Documents relied upon have been filed in eight volumes. He has, inter alia, stated that the LTTE's objectives for a separate homeland (Tamil Ealam) for all Tamils threatens the sovereignty and territorial integrity of India. In his affidavit he has given details of the activities of the LTTE and has also mentioned the reasons

justifying their being declared as an Unlawful Association. The Affidavit is marked as Exhibit-PW.1/2. The Annexures to his deposition are Exhibit PW.1/2/X-1 to X-10 (Vol.1), P.W.1/2/A1-A120 (Volumes-II, III and IV), P.W.1/2/B1-B20, P.W.1/2/C1-C3 (Volume-V), P.W.1/2/D1-D4 (Volume-VI), P.W.1/2/E1-E45 (Volume-VII), P.W.1/2/F1-F25, P.W.1/2/G1-G19 and P.W.1/2/H1-H8 (Volume-VIII) [collectively]. They are true copies of the originals. (The originals have been brought and compared at random).

20. Mr. P.K.Mishra, Director(Internal Security), Ministry of Home Affairs, New Delhi in his affidavit has asseverated on similar lines as in the affidavit of Mr. M.Ashok Kumar and has supported his evidence.

21. Mr. Mishra was examined as P.W.2. In his statement recorded on 13th October, 2008 at Hosur (Tamil Nadu) he deposed that he has tendered his Affidavit by way of Evidence along with Annexures I to X, A-1 to A-4, B-1 to B-4, C-1 to C-4, D-1 to D-4, E-1 to E-8, F-1 to F-7 and G-1, running into 738 pages. He stated that Annexure E-1 to his affidavit pertains to FIR No.1/2007 dated 23.1.2007. Annexure E-1 pertains to activities of 8 Sri Lankan Nationals of Tamil origin who are supporters or part of the Liberation Tigers of Tamil Eelam (LTTE) Group. They were apprehended in suspicious circumstances with goods, *inter alia*, required for the manufacturing of bombs. The case is pending. Annexures E-2 to E-8 are similar cases which are pending adjudication or prosecution. He has further stated that the Central Government had received information from the State of Tamil Nadu to the effect that 41 cases have been registered since 2006 in connection with which 49 Sri Lankan

Nationals of Tamil origin and 146 local Indian Citizens/sympathizers have been arrested. The number of persons arrested has swelled to 199 till the present date. The aims and objectives of the political wing of the LTTE, People's Front of Liberation Tigers, as well as the activities of the LTTE cadres indicate that behind all these activities there is a clear aim for cessation of traditional land occupied by Tamils, from the Indian Union. The LTTE continues to be an unlawful Association and its members and sympathizers are carrying on unlawful activities. According to their information, LTTE is perhaps the only Organisation which has developed the sources for aggressive action in the air as well as on sea. Procurements are made through the sympathizers and Sri Lankan Tamils in India. Available inputs also indicate that the LTTE maintained regular communication network over mobile phones. He has already asseverated in detail that there are portions of Indian territory which are extremely vulnerable to assault by air by the LTTE for the reason that the nearest point is as close as 31 nautical miles from the LTTE base in Sri Lanka. Instances of attack of this nature have been reported in the Press as well as are available on the Internet. According to the Media Reports, pages 712-716 (Vol. IV of Exhibit PW2/T), which he believes to be correct, Federal Bureau of Investigation (FBI) of America states that the LTTE is one of the "deadliest" extremist Organisations in the world today. He further stated that pro-LTTE Organisations have been voicing demands for establishment of a separate Tamil Nation Republic including secession from India on lines similar to what has been publicly espoused by the LTTE. Annexures B-1 to B-4

(speeches) are particulars of some cases in this category. He has deposed that the Central Government has information that the LTTE, a foreign based organization, operating, *inter alia*, on Indian soil with the support of pro-LTTE organizations has been persisting with its violent, disruptive and unlawful activities prejudicial to the territorial integrity and sovereignty of India and after coming to the opinion that the aforesaid activities of LTTE continue to pose threat to and are detrimental to the sovereignty and territorial integrity of India, declared the LTTE to be an unlawful association for a further period of two years with effect from the Notification dated, 14.5.2008. The Government of India was disturbed with possible links between LTTE and the United Liberation Front of Assam (ULFA). The matter is under investigation and there is no material available to indicate that there 'was' and 'is' no linkage between ULFA and the LTTE. He stated that the unlawful activities of the LTTE have not abated since the last ban and are continuing in the same strength. He also drew attention of the Tribunal to the fact that in the Notification dated 20.11.1992 there is a specific mention that the LTTE encourages and aids ULFA which continues to be a declared unlawful Association and also a listed Organisation under Section 35 of the Unlawful Activities (Prevention) Act, 1967. He has further stated that the ban imposed by the United Kingdom and the European Union in respect of the LTTE is presently in force. So far as the United States of America is concerned, it had banned the LTTE as well as its auxiliary and affiliated organisation, such as the Tamil Rehabilitation Organisation. He has already mentioned in his Affidavit (Exhibit PW2/1) that

there are instances of the LTTE cadres attacking Indian fishermen in Indian territorial waters. Annexure G1 to Exhibit PW2/1 are copies of speeches delivered by Prabhakaran, Head of the LTTE which is cynical of the Policy of the Government of India in respect of the LTTE. He submitted that in case the ban is lifted, the disgruntled Tamil chauvinist groups and elements would feel emboldened leading to increase in their activities which would be detrimental to the security of the State. Further, the indulgence of pro-LTTE groups in illegal activities openly with the tacit support of the chauvinist forces cannot be ruled out and also if the present ban is not extended, the chances of infiltration by the LTTE into the State would pose a grave threat to the sovereignty and territorial integrity of India. He has stated that the present Notification dated 14.5.2008 was necessitated in public interest. He has submitted that the ban imposed with immediate effect by way of Notification dated 14.5.2008, be confirmed for the aforesaid reasons.

22. Mr. M. Ashok Kumar, in his further statement recorded on 31.10.2008 at Kanniyakumari, has tendered in evidence his additional Affidavit dated 30.10.2008 and has affirmed each and every statement made therein. The Affidavit is Exhibit PW1/3 with Annexures I-1 to I-24, running into 129 pages.

He stated that without prejudice to the generality of the statements made in the Affidavit, between 31.5.2006 and 21.10.2008 several incidents have occurred which demonstrate that the unlawful activities of the Liberation Tigers of Tamil Eelam (LTTE) have not ended or abated. He has deposed that in the recent past, there have been many instances in which cadres of the Liberation

Tigers of Tamil Eelam (LTTE) or their front organisations have been arrested or sentenced to prison for a variety of subversive activities across the world. Some of the major incidents involving the LTTE outside Sri Lanka include:

May 31, 2006: Foreign Minister Mangala Samaraweera informed that the LTTE funnels contribution through Malaysia and Singapore to buy weapons in Thailand and Cambodia. (Annexure- I -1 to the affidavit).

July 19, 2006: The LTTE is entrenched in Canada and uses a Toronto-based “front organization” called the World Tamil Movement (WTM) to raise money for arms, says a summary of an ongoing RCMP investigation. The RCMP 58-page document refers to the WTM as “the Canadian arm” of the LTTE. (Annexure- I -2);

August 22, 2006: Thirteen suspects with close links to the LTTE, including “Waterloo” Suresh @ Suresh Skandarajah, were arrested from Buffalo, New York, San Jose, California, Seattle, Washington and Connecticut following the Royal Canadian Mountain Police (RCMP) and FBI probe into allegations that LTTE sympathizers in North America tried to buy missiles and move terror funds. (Annexure- I -3);

August 23, 2006: Authorities in Thailand arrested three Sri Lankans, Asirvatham Sathyapavan, Thevarajah Sashiharan and U.G.Gunapala, who were procuring arms for the LTTE. They were arrested while trying to ship arms and ammunition, including a variety of pistols and 45,000 rounds of ammunition, to Mullaitivu. Two Tamil Canadians, Ramanan Mylvaganam and Piratheepan

Nadarajah, were arrested in an alleged conspiracy to buy weapons for the LTTE. (Annexure-B-4).

August 28, 2006: A British doctor, Murugesu V Mayagamoorthy, @ Dr. Modrthy, a senior LTTE intermediary, is arrested from New York for aiding the LTTE by facilitating the purchase of American rockets and British submarine technology. (Annexure-1-6)

November 1, 2006: A family of three, Sivarajah Yathavan, his wife Abirami Yathavan and P.Senthuran, father-in-law of Yathavan, reportedly conduct

LTTE operations in Victoria, Australia: (Annexure- I-6);

January 30, 2007: The Interpol Headquarters in France issued a world wide arrest warrant for the LTTE Sea-Tiger leader, Thillayampalam Sivanesan @ Soosai, identifying him as a fugitive wanted for prosecution consequent to the facts forwarded by the Central Investigation Department to Court. (Annexure- I

-7); it is being found increasingly on balloons, which may be used to

March 8, 2007: Haji Subandi, an international arms dealer from Indonesia, pleaded guilty in a federal court in Guam in USA to conspiring to export guns, surface-to-air missiles and other military hardware to LTTE. (Annexure- I -8);

March 25, 2007: LTTE reportedly supplied forged passports to Ramzi Yousef who bombed the World Trade Center, counter terrorism expert Aaron Mannes said. **March 20:** Falk Rovik, chief spokesperson of the Norwegians against

operation. The above information was reported to the US Attorney General.

terrorism, said in Toronto that the LTTE have stolen hundreds of Norwegian passports and sold them to al Qaeda to earn money. (Annexure- I -9);

April 1, 2007: The leader of the LTTE's France branch since 2003, Nadarajah Mathinthiran @ 'Parathi' and Thuraishamy Jeyamorthy @ 'Jeya', who are in charge of the money collection in France, were among 17 LTTE suspects arrested. During 2006, the LTTE reportedly collected more than six million Euros where each Tamil family was forced to pay 2000 Euros per year and shopkeepers were made to pay 6000 Euros. (Annexure- I -10);

April 5, 2007: A 55-year old Singapore national, Haniffa Bin Osman, pleaded guilty to conspiracy to provide material support to the LTTE, said US Attorney for the District of Maryland. Three others, including, Haji Subandi and Erick Wotulo, both Indonesian citizens, pleaded guilty to attempted to illegally export arms for the outfit. (Annexure- I -11);

April 8, 2007: French Police cancelled the permission granted earlier to hold a protest rally in Paris condemning the arrest of LTTE cadres on April 1. The LTTE-controlled business chamber, youth organization and women front of the outfit were involved in organizing the proposed protest rally. (Annexure- I -12);

April 25, 2007: The 'director' of LTTE in New York, Karunakaran Kandasamy, was arrested by the Federal Bureau of Investigation (FBI) in Queens on charges of providing material support to a foreign terrorist organization. The group headed by him reportedly operated in the US "drawing

on America's financial resources and technological advances to further its war of terror in Sri Lanka and elsewhere. A FBI raid on Kandasamy's office in Queens has revealed evidence that he raised millions of dollars for the Tamil Tigers through a front organisation called the World Tamil Coordinating Committee." (Annexure- I -13);

April 28, 2007: Six Sri Lankans, including the prime accused Satrubarajah Shanmugarajah @ Ruby, connected to the LTTE were convicted for organized crime in Norway. More than 5.3 million Norwegian Kroner have reportedly been stolen in Norway's largest credit card scam which has links to LTTE cells in Canada, England, Germany and Sweden. (Annexure- I -14);

May 1, 2007: Australian Police arrested two suspected LTTE cadres, Aruran Vinayagamoorthy (who had access to \$5,26,000 in two bank accounts between August 2001 and December 2005) and Sivarajah Yathavan, after raids in Sydney and Melbourne on the charges of providing material support and funnelling money collected from donors in the garb of a Tsunami charity to the outfit. (Annexure- I -15)

May 5, 2007: A Singapore based terrorism expert Rohan Gunaratna said that the LTTE has been procuring aircraft, arms, explosives and other technological devices from Australia for more than a decade. (Annexure- I -16);

May 6, 2007: A Hindu temple in South London, which reportedly raises nearly 500,000 each year, may have possible links to the LTTE in Sri Lanka. A BBC report said that the Armulmihi Hindu temple in Tooting "has had its

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assets frozen pending an investigation into alleged links with the UK banned Tamil Tigers.” (Annexure- I -17);

May 10, 2007: Thirunavukarasu Varatharasa, a Sri Lankan citizen, pleaded guilty in a US Court to conspiracy to provide material support to the LTTE and attempted export of arms and ammunition. According to the plea agreement, from April to September 29, 2006, Varatharasa conspired with Haji Subandi, Haniffa Osman and Erick Wotulo to export state-of-the-art firearms, machine guns and ammunition, surface to air missiles, night vision goggles and other military weapons to the LTTE. National Post reported that the LTTE has been aggressively fund raising in Montreal using a sophisticated pre-authorised payment scheme and other methods to collect money from the city's 25,000-strong Tamil community. (Annexure- I -18);

May 16, 2007: A London Court was told that Senthuraj Thavapalasingham @ “Psycho” of Romford is the enforcer leading a gang of LTTE extortionists called “East Side Boys”. Newham Council and Metropolitan Police told Stratford Magistrates Court that this gang has been working in Newham for two years. Chief Inspector Derrick Griffiths said, “To my knowledge there are around five Tamil gangs operating in London. This is a gang of about 30 young men aged between 15 and 32 who are paid by an organization called the LTTE. They were paid to extort money from local businessmen and residents. Their victims were paying anywhere between Pounds 5,000 and 25,000 a year. In one case a businessman was paying 25,000 a year for four years.” (Annexure- I -19);

May 17, 2007. Maldives coast guard opened fire on and sank a small vessel carrying LTTE cadres after a 12-hour stand-off at sea in southern territorial waters of Maldives. According to reports, four of the nine member crew were killed, four others were arrested and one surrendered. Reports said that the vessel "Sri Krishna", which started off as a deep sea fishing trawler from Kerala coast with 12 Indian fishermen, was hijacked by the LTTE to do some gun running for it after detaining the fishermen. The boat was carrying guns and mortar bombs when it was confronted by Maldivian Coast Guard (Annexure- I -20):

23. Mr. M. Ashok Kumar further stated that all this information gathered from Press Reports and reports of other organizations, such as Interpol, Internet etc. also speaks in consonance with the information gathered by their intelligence agencies. The object of LTTE, as contained in their Constitution, is to form a traditional Tamil land, even if that means secession from India. Speeches have been made on Indian soil in support of a separate Tamil Nadu state. In this connection, Shri Vaiko, General Secretary of MDMK Party and Shri Kannappan, MLA, Marumalarchi Dravida Munnetra Kazhagam (MDMK Party), were arrested on 23.10.2008. Film Director Seeman Sevanthi and Ameer Sulthan have recently delivered speeches in support of the LTTE and against the integrity of India, as a result of which both were arrested on 24.10.2008. He stated that as on May 2007 as many as thirty countries have listed the LTTE as a terrorist organisation, including India, the United States of America, United Kingdom, European Union and Canada. So far as Australia is

concerned, legislation prescribes holding of assets owned or controlled by terrorist organisations or individuals, which includes LTTE or to make assets available to them in pursuance of relevant U.N. resolutions.

24. Mr. M. Ashok Kumar stated that based on all this material, the Government of India is of the opinion that if the ban on LTTE is not continued, disruptive elements adhering to the LTTE will work towards the dismantling of India and the forging of a separate Tamil State. Tamil diaspora across the world have organized several rallies, meetings and cultural programmes demanding a recognition of right of self-determination, traditional homeland of Tamils and Tamil as distinct nationality. Such rallies were held in several places, including Canada, Denmark, Belgium, Finland, France, Germany, Italy, Netherlands, New Zealand and Norway. There are places in India, such as Kalpakkam and Koodankulam, where nuclear plants are in existence and are closer in proximity from LTTE bases in Sri Lanka than some sites in Sri Lanka where active aerial bombarding has taken place. Therefore, the Government of India is apprehensive that unless the ban on the LTTE continues, acts of aggression on Indian soil are likely to occur.

25. The depositions of aforesaid two witnesses would reveal that an attempt is made to justify the Notification dated 14.5.2008 on the following basis:

- (i) that the Liberation Tigers of Tamil Eelam is an Association actually based in Sri Lanka but having sympathizers, supporters and agents on the Indian soil;

(ii) that the LTTE's objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of an unlawful activity;

(iii) the turbulence in Sri Lanka is being exploited by pro-LTTE forces to draw up support for the LTTE and its cause by taking out processions, demonstrations, etc., in spite of the ban, causing disquiet and threat to the security of the State of Tamil Nadu;

(iv) most of the criminal cases involving LTTE and pro-LTTE groups like Tamil Nadu Liberation Army (TNLA) have ended in conviction and the Tamil Eelam concept still remains as a goal among the pro-LTTE groups in Tamil Nadu

and the process is still at work to further its cause, thereby contributing to the said highly vulnerable milieu in which LTTE's free functioning in India as a lawful association if allowed, is likely to be highly detrimental to the sovereignty and territorial integrity of India;

(v) the LTTE continues to be an extremely potent, most lethal and well-organised terrorist force in Sri Lanka and has strong connections in Tamil Nadu; and certain pockets of southern

India. The LTTE continues to use the State of Tamil Nadu as the base for carrying out smuggling of essential items like petrol and diesel, besides drugs to Sri Lanka;

- (vi) the LTTE will continue to remain a strong terrorist movement and stimulate the secessionist sentiments to enhance its support base in Tamil Nadu as long as Sri Lanka continues to remain in a state of ethnic strife torn by the demand for Tamil Eelam which finds a strong echo in Tamil Nadu due to the linguistic, cultural, ethnic and historical affinity between the Sri Lankan Tamils and the Indian Tamils in Sri Lanka;
- (vii) enquiries on the activities of the LTTE cadres/dropouts who have been traced out recently in the State of Tamil Nadu would suggest that the cadres sent to Tamil Nadu would ultimately be utilized by the LTTE for unlawful activities;
- (viii) the activities of Pro-LTTE organisations and individuals have come to notices in India, despite the ban in force and attempts have been made by these forces to extend their support to the LTTE;
- (ix) the LTTE leaders have been cynical of India's policy on their organization and action of the State machinery in curbing their activities.

26. Each of the aforesaid submissions are fortified by instances and documents. In respect of above instances which are given are the speeches of various individuals/organizations calling upon and criticizing the Government on their policies towards Sri Lanka. All these documents have been exhibited.

27. Right to speech is one of the fundamental rights conferred on every citizen of this country under article 19(1)(a) of the Constitution of India. To that extent these speeches may not be relied upon by the deponent to support the Notification in question imposing the ban. However, in some of these speeches the limit of fair criticism is crossed and the speakers have entered into forbidden area and the exhortation in those parts of the speeches would fall within the mischief of section 2(a) of the Act and could be dubbed as intending to or supporting the aims of LTTE to bring about the secession of a part of territory of India or inciting any individual or groups of individuals to bring about such cession or secession and may be punishable under section 13 of the Act. Specific reference to such speeches and particular quotations therefrom is consciously and deliberately being avoided as, in respect of many speeches, FIRs are registered against the makers of those speeches under the provisions of the Act as well as other statutes. Any observations made in detail may affect the trial of those cases pending in the Courts of law. It would suffice to observe that for the purpose of the present enquiry under sub-section (3) of section 4, it would constitute relevant material.

28. Examples have also been given of the cases which were registered earlier and are still alive and in many cases some of the LTTE cadres and

members of Tamilar Pasarai, Tamil National Retrieval Troops and Tamil Nadu Liberation Army, who are accused in these cases are at large and efforts are on to secure them. Specific stress is laid on the fact that Mr. Prabhakaran, leader of LTTE and his Intelligence Chief Pottu Amman, wanted in Rajiv Gandhi Assassination case are still absconding who were declared as proclaimed offenders.

29. Maintaining that LTTE continues to be an extremely potent, most lethal and well-organised terrorist force in Sri Lanka and has strong connections in Tamil Nadu and certain pockets of Southern India and also that it continues to use the State of Tamil Nadu as the base for carrying out smuggling of essential items like petrol and diesel, besides drugs to Sri Lanka, it is contended that POL items and other essential commodities are in great demand by LTTE and to overcome the shortfalls are luring the fishermen and known smugglers with a good premium for such commodities and they in turn engage in smuggling essentials to the LTTE. It has been stated on Oath that the State machinery has detected such smuggling cases and instances of number of such cases are given hereinabove. Various methods adopted for this purpose include suicide bomber killing. It is sought to contend on the basis of these examples that LTTE continues to repose faith in use of violence to achieve its ends.

30. Mr. P.P. Malhotra, learned ASG appearing for the Central Government and Mr. S. Dhananjayan, counsel for the State of Tamil Nadu extensively referred to the aforesaid material during their arguments for justifying the issuance of the Notification dated 14.5.2008 extending ban on the LTTE, under

section 3(3) of the Act for a further period of two years from the date of Notification. It has also been pointed out by them that simultaneously with the repeal of POTA, Unlawful Activities (Prevention) Amendment Act 2004 came into being on 21.9.2004. The amended Act contains Section 2(m) which deals with the definition of "terrorist organisation" to mean an organization listed in the Schedule or organisation operating under the same name as an organisation so listed. Schedule annexed to the Act specifies 32 terrorist organisations and LTTE is mentioned at Serial No.21 in this schedule. It was thus submitted that LTTE is even declared as terrorist organization in India by the aforesaid Amended Act having statutory force.

31. In the absence of any representation from LTTE, entire material placed by the Central Government as well as State Government including the deposition of their witnesses remain un-rebutted and is taken as having been proved.

32. After considering the aforesaid material placed on record and the arguments advanced by learned counsel for the State as well as the Union of India, this Tribunal is satisfied that the opinion formed by the Central Government resulting in issuance of the Notification dated 14.5.2008 is based on cogent and relevant material justifying exercise of its power under section 3(1) of the Act by declaring LTTE as an Unlawful Association. The grounds which are stated in the Notification have been duly supported by the material and documents on record.

33. This Tribunal is of the opinion that there is sufficient material to justify that the ban imposed earlier should continue to check and control the unlawful activities of the LTTE. Despite notifications since 14th May, 1992 onwards declaring the LTTE to be an Unlawful Association, it is continuing its unlawful activities.

34. Predicated on the material presented before the Tribunal, I am satisfied that the Central Government is justified in arriving at the conclusion that LTTE continues to remain a strong separatist terrorist movement. In this analysis this Tribunal confirms the declaration made by the Central Government vide notification No. SO. 1133(E), dated the 14th May, 2008.

(Sd) Justice Vikramajit Sen
November 10, 2008

Unlawful Activities (Prevention) Tribunal

[F. No. 1-11034/1/2008-IS-I]

D. DIPTIVILASA, Jt. Secy.